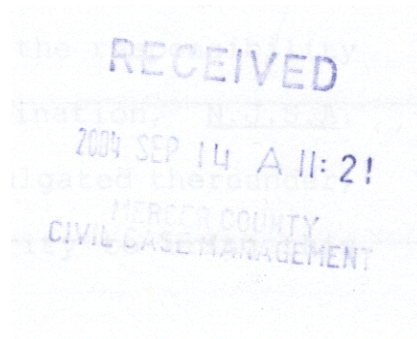


PETER C. HARVEY
ATTORNEY GENERAL OF NEW JERSEY
Division of Law
124 Halsey Street - 5th Floor
P.O. Box 45029
Newark, New Jersey 07101
Attorney for Plaintiffs

By: Anne Marie Kelly
Brian O. Lipman
Deputy Attorneys General
Tel.: (973) 648-4846



SUPERIOR COURT OF NEW JERSEY
CHANCERY DIVISION: MERCER COUNTY
DOCKET NO.:

PETER C. HARVEY, ATTORNEY GENERAL
OF THE STATE OF NEW JERSEY and :
J. FRANK VESPA-PAPALEO, DIRECTOR :
OF THE NEW JERSEY DIVISION ON :
CIVIL RIGHTS, :

Plaintiffs, :

v. :

COMPLAINT

ANSCHUTZ CORPORATION :
d/b/a REGAL ENTERTAINMENT GROUP :
and/or REGAL CINEMAS, INC., :

Defendant. :

Plaintiffs, Peter C. Harvey, Attorney General of New Jersey,
with offices located at Hughes Justice Complex, 25 W. Market
Street, P.O. Box 080, Trenton, New Jersey, and J. Frank Vespa-
Papaleo, Director of the New Jersey Division on Civil Rights, with
offices located at 140 East Front Street, P.O. Box 089, Trenton,
New Jersey, by way of Complaint say:

JURISDICTION AND PARTIES

1. The Attorney General of the State of New Jersey ("Attorney General") is charged, among other things, with the responsibility of enforcing the New Jersey Law Against Discrimination, N.J.S.A. 10:5-1 et seq. ("LAD"), and all regulations promulgated thereunder, N.J.A.C. 13:13-1.1 et seq., and has the authority to bring this action pursuant to N.J.S.A. 10:5-13.

2. The Director of the New Jersey Division on Civil Rights ("Division") acts for the Attorney General, and with the Attorney General's power, in enforcing the LAD. N.J.S.A. 10:5-8(d). The Division is charged, among other things, with the responsibility of preventing any place of public accommodation from refusing, withholding from, or denying to any person protected by the LAD any of the accommodations, advantages, facilities or privileges thereof, or from discriminating against any such person in the furnishing thereof. N.J.S.A. 10:5-12(f)(1). The Director has the authority to bring this action pursuant to N.J.S.A. 10:5-13.

3. By this action, the Attorney General and the Director (collectively referred to as "Plaintiffs") seek injunctive relief, punitive damages, attorney's fees, and other relief for violations of the LAD.

4. Venue is proper in Mercer County, pursuant to R. 4:3-2(a) and R. 4:29-1.

5. Regal Entertainment Group and Regal Cinemas, Inc. ("Regal") are owned by the Anschutz Corporation, which also owns the San Francisco Examiner, Edward's Theaters Circuit, Inc., and

United Artists Theater Company. Regal has a principal place of business at 7132 Regal Lane, Knoxville, Tennessee 37918. As of June 1, 2003, it is the largest movie theater company in the United States, operating 6,124 screens at 563 sites. It, or its affiliates or subsidiaries, owns, operates and/or controls approximately 152 screens at twelve sites in New Jersey.

BACKGROUND

6. According to statistics analyzed by the New Jersey Department of Human Services, Division of the Deaf and Hard of Hearing, New Jersey's primary contact agency for information and referrals for individuals with hearing loss, of New Jersey's 8,052,000 residents, about 720,000, or approximately 8.9%, have some level of hearing loss.

7. Being deaf or hard of hearing is a recognized disability under the LAD. N.J.S.A. 10:5-5(q),(w).

8. The purpose of the LAD, among other things, is to prohibit any place of public accommodation directly or indirectly from refusing, withholding or denying to any disabled person any of the accommodations, advantages, facilities or privileges thereof. N.J.S.A. 10:5-12(f)(1).

9. Defendant's movie theaters are "places of public accommodation," N.J.S.A. 10:5-5(1), and therefore must comply with the LAD's prohibition of discrimination against the deaf and individuals with hearing impairments.

10. The regulations promulgated under the LAD require, inter

alia, a place of public accommodation to make "reasonable modifications" to provide an accommodation to a person with a disability, unless the owner can show that such modifications would impose an undue burden on its operations. N.J.A.C. 13:13-4.11(a). The regulations further provide that a reasonable accommodation to a person who is deaf or has a hearing impediment includes the provision of auxiliary aids and services to ensure effective communication, such as closed caption decoders, and open and closed captioning. N.J.A.C. 13:13-4.12(a)(7).

11. Movies are a significant part of our Nation's culture. Movie characters, scenes and dialogue constitute a major portion of our citizens' common experiences and infiltrate all parts of our State's collective culture. In media, at work, and in the home, discussion of, and references to, movies are prevalent and a basis for dialogue, communications and understanding. Deaf and hard of hearing persons who are unable to attend first-run movies are foreclosed from enjoying not only the movies themselves, but from sharing experiences and creating bonds with their family, friends and fellow citizens.

12. There are different technologies that can be utilized by people who are deaf or hard of hearing to access movies: open captioning and closed captioning.

13. Traditionally, open captioning requires the captioning to be burned on an individual reel of film. This is a labor intensive process, which takes place at least three weeks and often up to three to four months after the initial distribution of the film.

Thus, the deaf and hard of hearing community must wait a long period after the release of a film to view it. Even when it is shown, it is usually screened only at occasional showings not during prime times (Friday and Saturday nights). Moreover, there are a limited number of reels of film upon which captioning is burnt; in some instances there may only be one captioned version of a particular film available for all New Jersey theaters.

14. Recently, a new type of open captioning has been made available to movie theaters, Open Caption Projection ("OCP"). This system requires a theater to install a second projector, which projects the captioning directly onto the film as it is showing. Unlike the older technology, the theater owner has the option to turn the Open Caption Projection on or off at individual screenings. OCP-compatible films have their captions available from the very first showing of a film and for each and every showing of the film in OCP-equipped theaters.

15. Closed captioning displays the text only to patrons utilizing the equipment. With Rear Window Caption ("RWC"), a closed caption technology designed specifically for movie theaters, captions are recorded on a computer disc and played simultaneously with regular screenings of the movie. As the movie is displayed on the screen, the captions are sent to an LED data panel on the back wall of the theater and the text is reversed. Patrons then use panels at their seats to reflect the LED captions, allowing the captions to appear superimposed on or beneath the movie screen. The reflective panels are portable and adjustable, enabling patrons

using RWC to sit almost anywhere in the theater.

16. The number of RWC-and OCP-compatible films that are released is significant and will continue to increase as more movie theaters install the technology. RWC- and OCP-compatible films have their captions available from the very first showing of a film and for each and every showing of the film in RWC- or OCP-equipped theaters.

17. At this time, to install OCP would cost approximately \$12,500. This cost would likely be reduced if OCP equipment were purchased in bulk for installation in more than one theater.

18. At this time, to install RWC would cost approximately \$10,000. This cost would probably be reduced if RWC equipment were purchased in bulk for installation in more than one theater.

19. OCP (when used at all showings) and RWC are reasonable accommodations under the LAD and do not impose an undue burden on Defendant, in that neither OCP nor RWC is excessively costly nor would result in a fundamental alteration to the theater. N.J.A.C. 13:13-4.11(b), 13:13-4.12(a)(7).

VIOLATIONS OF THE LAW AGAINST DISCRIMINATION

20. Despite the release of most movies shown in Defendant's theaters in formats compatible with the RWC and OCP systems, and despite the fact that such systems are neither excessively costly nor would result in a fundamental alteration to the theaters, none of Regal's theaters located in New Jersey are equipped with either

an RWC or OCP system.

21. On August 3, 2004, the Burlington Stadium 20 theater located at 250 Bromley Boulevard, Burlington, New Jersey, showed nineteen first-run films. Eleven of those films had RWC and OCP capability, which would have made them accessible to the deaf and hard of hearing community.

22. On August 10, 2004, the Burlington Stadium 20 theater identified in paragraph 21 showed seventeen newly released films. Ten of those films had RWC and OCP capability, which would have made them accessible to the deaf and hard of hearing community.

23. On August 3, 2004, the Cumberland Mall Stadium 14 theater located at 3849 S. Delsea, Vineland, New Jersey, showed fourteen newly released films. Ten of those films had RWC and OCP capability, which would have made them accessible to the deaf and hard of hearing community.

24. On August 10, 2004, the Cumberland Mall Stadium 14 theater, identified in paragraph 23 showed thirteen newly released films. Nine of those films had RWC and OCP capability, which would have made them accessible to the deaf and hard of hearing community.

25. On August 3, 2004, the Hadley Theater Stadium 16 located at 1000 Corporate Court, South Plainfield, New Jersey, showed thirteen newly released films. Nine of those films had RWC and OCP capability which would have made them accessible to the deaf and hard of hearing community.

26. On August 10, 2004, the Hadley Theater Stadium 16, identified in paragraph 25 showed thirteen newly released films. Ten of those films had RWC and OCP capability, which would have made them accessible to the deaf and hard of hearing community.

27. On August 3, 2004, the UA Washington Township 14 theater located at 121 Tuckahoe Road, Sewell, New Jersey, showed nine newly released films. Six of those films had RWC and OCP capability, which would have made them accessible to the deaf and hard of hearing community.

28. On August 10, 2004, the UA Washington Township 14 theater identified in paragraph 27, showed ten newly released films. Six of those films had RWC and OCP capability, which would have made them accessible to the deaf and hard of hearing community.

29. On August 3, 2004, the Pohatcong 12 theater located at 1246 U.S. Highway 22, Phillipsburg, New Jersey, showed twelve newly released films. Eight of those films had RWC or OCP capability, which would have made them accessible to the deaf and hard of hearing community.

30. On August 10, 2004, the Pohatcong 12 theater identified in paragraph 29 showed eleven newly released films. Eight of those films had RWC and OCP capability, which would have made them accessible to the deaf and hard of hearing community.

31. On August 3, 2004, the Commerce Center Stadium 18 theater located at 2399 Route 1 South, North Brunswick, New Jersey, showed seventeen newly released films. Ten of those films had RWC or OCP capability, which would have made them accessible to the deaf and

hard of hearing community.

32. On August 10, 2004, the Commerce Center Stadium 18 theater identified in paragraph 31 showed fifteen newly released films. Ten of those films had RWC and OCP capability, which would have made them accessible to the deaf and hard of hearing community.

33. On August 3, 2004, the Movies @ Market Fair Stadium 10 Theater, located at 3521 Route 1, Princeton, New Jersey, showed ten newly released films. Six of those films had RWC or OCP capability, which would have made them accessible to the deaf and hard of hearing community.

34. On August 10, 2004, the Movies @ Market Fair Stadium 10 theater identified in paragraph 33 showed ten newly released films. Eight of those films had RWC and OCP capability, which would have made them accessible to the deaf and hard of hearing community.

35. On August 3, 2004, the Cross Keys Cinema Stadium 12 theater located at 151 American Boulevard, Turnersville, New Jersey, showed thirteen newly released films. Seven of those films had RWC or OCP capability, which would have made them accessible to the deaf and hard of hearing community.

36. On August 10, 2004, the Cross Keys Cinema Stadium 12 theater identified in paragraph 35 showed twelve newly released films. Six of those films had RWC and OCP capability, which would have made them accessible to the deaf and hard of hearing community.

37. On August 3, 2004, the Marlboro Stadium 8 theater located

at 12 Route 9 North, Morganville, New Jersey, showed ten newly released films. Six of those films had RWC or OCP capability, which would have made them accessible to the deaf and hard of hearing community.

38. On August 10, 2004, the Marlboro Stadium 8 theater identified in paragraph 37 showed eight newly released films. Seven of those films had RWC and OCP capability, which would have made them accessible to the deaf and hard of hearing community.

39. On August 3, 2004, the UA Moorestown Mall 7 theater located at 400 Route 38, Moorestown, New Jersey, showed eight newly released films. Seven of those films had RWC or OCP capability, which would have made them accessible to the deaf and hard of hearing community.

40. On August 10, 2004, the UA Moorestown Mall 7 theater identified in paragraph 39 showed eight newly released films. Seven of those films had RWC and OCP capability, which would have made them accessible to the deaf and hard of hearing community.

41. On August 3, 2004, the Hudson Mall 7 theater located at 725 St. Route 440, Jersey City, New Jersey, showed seven newly released films, five of those files had RWC or OCP capability, which would have made them accessible to the deaf and hard of hearing community.

42. On August 10, 2004, the Hudson Mall 7 theater identified in paragraph 41 showed seven newly released films. Five of those films had RWC and OCP capability, which would have made them accessible to the deaf and hard of hearing community.

43. On August 3, 2004, the Hamilton Commons Stadium 14 theater located at 4215 Black Horse Pike, Mays Landing, New Jersey, showed fourteen newly released films. Nine of those films had RWC or OCP capability, which would have made them accessible to the deaf and hard of hearing community.

44. On August 10, 2004, the Hamilton Commons Stadium 14 theater identified in paragraph 43 showed thirteen newly released films. Ten of those films had RWC and OCP capability, which would have made them accessible to the deaf and hard of hearing community.

45. The only action taken by Defendant to enable in any manner deaf and hard-of-hearing patrons to enjoy movies shown at Defendant's theaters is the very limited, sporadic showing of a small number of films, which are not newly released and which are not shown during prime times, in the older open caption format described in paragraph 13 above.

46. Both in person and in writing, Plaintiffs have requested that Regal install either the OCP or RWC system at its theaters in New Jersey so that the deaf and hard of hearing may enjoy newly released films at the same time as non-deaf and hard of hearing patrons. Regal has advised that it is unwilling to install either system.

47. By refusing to install either the OCP or RWC system in its movie theaters in New Jersey, and by otherwise not making its movies accessible to the deaf and hard of hearing, Defendant has violated the New Jersey Law Against Discrimination and its

regulations, since installation of either one of these systems would enable the deaf and hard of hearing citizens of New Jersey to attend newly released movies and to share their experiences with their family, friends and fellow citizens.

WHEREFORE, the named Plaintiffs, on behalf of the deaf and hard of hearing citizens of New Jersey, respectfully request that this Court:

a) Enter a finding that Defendant has violated the Law Against Discrimination and its regulations because of its failure to install either the OCP or RWC system in its movie theaters in New Jersey or to otherwise make its movies accessible to the deaf and hard of hearing citizens of New Jersey;

b) Enter injunctive relief against Defendant, including, but not limited to, requiring Defendant to implement the captioning and other interpretive aids as described above;

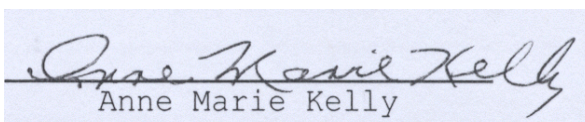
c) Award punitive damages;

d) Award counsel fees and costs pursuant to N.J.S.A. 10:5-27.1; and

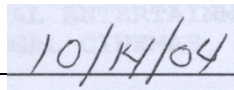
f) Award any other relief this Court deems appropriate.

PETER C. HARVEY
ATTORNEY GENERAL OF NEW JERSEY
Attorney for Plaintiffs

By:


Anne Marie Kelly
Deputy Attorney General

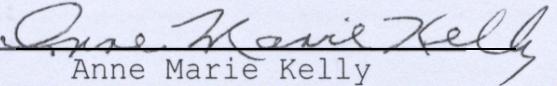
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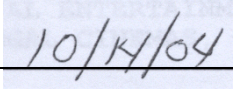


DESIGNATION OF TRIAL COUNSEL

Pursuant to R.4:25-4, Anne Marie Kelly and Brian O. Lipman, Deputies Attorney General, are hereby designated as trial counsel on behalf of Plaintiffs.

PETER C. HARVEY
ATTORNEY GENERAL OF NEW JERSEY
Attorney for Plaintiffs

By: 
Anne Marie Kelly
Deputy Attorney General

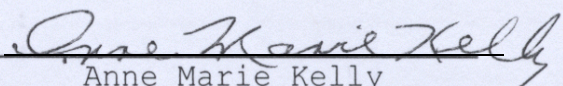
Dated: 

RULE 4:5-1 CERTIFICATION

I certify, to the best of my information and belief, that the matter in controversy in this action involving the aforementioned violations of the New Jersey Law Against discrimination, N.J.S.A. 10:5-1 et seq. is not the subject of any other action pending in any other court of this State. I further that the matter in controversy in this action is not the subject of a pending arbitration proceeding, nor is any other action or arbitration proceeding contemplated. I certify that there is no other party who should be joined in this action.

PETER C. HARVEY
ATTORNEY GENERAL OF NEW JERSEY
Attorney for Plaintiffs

By:


Anne Marie Kelly
Deputy Attorney General

Dated: _____

